

Mark C. Hardee #6-4137
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA)	
)	
Plaintiff)	CASE # 1:23-cr-00031-ABJ-1
)	
vs)	
)	
CHRISTOPHER BAKER)	
)	
)	
Defendant)	

UNOPPOSED MOTION FOR ENDS OF JUSTICE CONTINUANCE AND TO
EXCLUDE TIME FROM SPEEDY TRIAL ACT TIME LIMITS

Defendant Christopher Charles Baker, through his attorney, Mark C. Hardee, moves this Court to set trial in this matter beyond time limits set forth in 18 U.S.C. § 3161 et seq. and 18 U.S.C. § 3164 et seq. (“Speedy Trial Act”). Specifically, Mr. Baker asks this Court to extend the trial date for 45 days from the current trial date of August 28, 2023. The request is due to the lack of sufficient time needed to prepare for Trial.

Counsel for Mr. Baker conferred with AUSA Kerry Jacobson regarding this request, and she indicated the Government has no objection.

I. Background

On October 20, 2022, Mr. Baker was indicted on one count of Distribution of Fentanyl, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C). (ECF No. 1) Mr. Baker had his initial appearance on November 1, 2022. (ECF No. 6) Mr. Baker was arraigned on November 3, 2022 (ECF No. 13) On November 3, 2022, Counsel David Weiss filed an Waiver of Preliminary Hearing (ECF No. 15.) On November 15, 2022, Counsel David

Weiss filed an Unopposed Motion to Toll Speedy Trial Computation and on November 16, 2022, and an Order Tolling Speedy Indictment Computation was entered. (ECF No. 18) On January 5, 2023, Counsel David Weiss filed a Second Unopposed Motion to Toll Speedy Trial Computation. (ECF No. 19) A Motion Hearing was held on January 10, 2023, and the Court entered an Order Tolling Speedy Indictment Computation. (ECF No. 22) On February 8, 2023, Counsel David Weiss entered a Motion to Withdraw and on February 9, 2023, an Order granting David Weiss to Withdraw was Granted. (ECF No. 24.) Mr. Hardee entered his appearance on February 9, 2023. (ECF No. 25) On March 16, 2023 Mr. Baker was Indicted on one count Distribution of Fentanyl Resulting in Death, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), one count of Distribution of Fentanyl Resulting in Serious Bodily Injury, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and one count of Distribution of Fentanyl, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C). (ECF No. 26) Mr. Baker was arraigned on March 21, 2023. (ECF No. 32) On March 21, 2023, a Discovery and Scheduling Order was entered and the Jury Trial was scheduled for May 22, 2023. (ECF No. 34) On April 4, 2023, Counsel filed their First Motion for Expert Services for Greg Taylor, Private Investigator, an Order Granting Motion for Expert Services was entered on April 5, 2023. (ECF No. 37) on April 7, 2023 a Motion to Extend Government's Expert Designation Deadline was filed, an Order Granting was entered on April 10, 2023. (ECF No. 40) On April 10, 2023, a Joint Motion to Continue trial Date Beyond Speedy Trial Calculations and to Declare Case "Unusual and Complex" was filed. (ECF No. 39) A Motion Hearing was held on April 12, 2023, and an Order Granting Joint Motion to Continue Trial Date Beyond Speedy Trial Calculations and to Declare Case "Unusual and Complex" was entered.

Jury Trial reset for August 21, 2023. (ECF No. 43) On July 21, 2023, Counsel filed their First Motion to Extend Defendant's Expert Designation Deadline, an Order Granting Motion to Extend Defendant's Expert Designation Deadline was entered on July 24, 2023. (ECF No. 48) On July 28, 2023, Counsel filed their first Motion for Appointment of Expert in Biomedical Sciences, an Order Granting Motion for Expert Services was entered in August 2, 2023. (ECF No. 55) Counsel asks for 30-45 days to prepare for trial.

II. Argument

The Speedy Trial Act generally requires trial to begin within 70 days of the filing of this indictment or the Defendant's initial appearance, whichever is later. 18 U.S.C. § 3161(c)(1). However, Speedy Trial deadlines are not immutable, and the Act sets forth an extensive list of reasons allowing for periods of delay, which are excluded in computing the time within which trial must start. 18 U.S.C. § 3161(h). A District Court may exclude from the speedy trial calculation "any period of delay resulting from continuance granted by any judge on his own motion or at the request of the defendant or his counsel, or at the request for the attorney for the Government, if the judge granted such a continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). When granting an ends-of-justice continuance, the court must make its findings on the record. *Zedner v. United States*, 547 U.S. 489, 507 (2006); 18 U.S.C. § 3161(h)(8)(A).

Counsel for Mr. Baker requires additional time to effectively prepare and investigate his case. Counsel has been diligent as possible in investigating this case,

however, some interviews that have been completed have led to other avenues that require further investigation. A large number of these material and direct witnesses that were incarcerated with Mr. Baker have been discharged from the Albany County Detention Center to other correctional facilities. Arranging interviews with those incarcerated has required extra effort in contacting the facility the individual is housed in and arranging phone interviews as the facilities' schedules permit. Furthermore, the Biomedical Sciences Expert was recently appointed and needs further time to review records and evaluate the information provided.

Denying Mr. Baker's request for an extension would result in a miscarriage of justice. Thus, "the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." U.S.C. § 3161(h)(7)(A).

Accordingly, Mr. Baker asks that this Court extend the trial date 45 days and exclude this time from the Speedy Trial Act calculation and grant such further relief as is appropriate. Counsel has conferred with AUSA, Kerry Jacobson, and she and defense counsel agree both parties and their witnesses would be available to start Trial the week of October 10, 2023

Dated this 4th day of August, 2023.

/s/Mark C. Hardee
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CERTIFICATE OF SERVICE

I Mark C. Hardee certify that a true and correct copy of the foregoing document was

served upon all Counsel – AUSA Kerry Jacobson via the CM/ECF filing system, this 4th day of August, 2023.

/s/ Mark C. Hardee

Mark C. Hardee